

Appl. No. 10/049,497
Atty. Docket No. CM2140
Amdt. dated June 17, 2004
Reply to Office Action of March 17, 2004
Customer No. 27752

REMARKS

Application Amendments

Claims 1-4 and 8-10 are pending in the present application. No additional claims fee is believed to be due.

Claims 5 and 6 are canceled without prejudice. Claim 7 was previously canceled without prejudice.

Claims 1-3 have been amended to recite that the hair care composition comprises a cosmetically acceptable carrier which is suitable for use on hair. This subject matter was recited in original claims 5 and 6. Further support for this amendment can be found at page 10, line 20 to page 11, line 19 of the specification, as well as at page 12, line 20 to page 23, line 23 of the specification.

Claims 8 and 9 have been amended to recite "ester derivative of tyrosine" in order to correspond properly to the "ester derivative of tyrosine" recited in Claim 1. Support for this amendment can be found at page 7, line 3-5 of the specification.

Claim 10 has been amended to recite a method of treating hair. Support for this amendment can be found at page 44, lines 3-4.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejections Under 35 USC 103(a) Over US Patent No. 4,419,343 to Pauly in view of US Patent No. 5,290,562 to Meybeck et al.

Claims 1-6 and 8-10 are rejected under 35 USC 103(a) as being unpatentable over US Patent No. 4,419,343 to Pauly ("Pauly") in view of US Patent No. 5,290,562 to Meybeck et al. ("Meybeck"). The Examiner asserts that Pauly teaches a topical cosmetic composition for promoting photo-pigmentation and photo-protection from UV rays comprising tyrosine in combination with amino acids such as tryptophan, histidine, and lysine. Additionally, the Examiner states that Pauly teaches that the composition is applied to a substrate such as skin or hair. However, the Examiner notes that Pauly does not teach tyrosine esters. The Examiner further states, though, that Meybeck discloses cosmetic compositions which contain methyl tyrosinate, ethyl tyrosinate, or stearyl tyrosinate, and which can be used for "increasing the content of melanin and thus improve the hair complexion." Office Action at page 2. The Examiner asserts that Meybeck teaches the use of tyrosine esters, such as methyl or ethyl tyrosinate, incorporated in liposomes in cosmetic compositions because tyrosine does not easily

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penetrate across the corneum layer of the skin. Thus, the Examiner alleges, it would have been obvious for one of ordinary skill in the art to substitute the tyrosine of Pauly with the tyrosinate of Meybeck "with an expectation to increase the penetration of tyrosine across corneal [*sic*] layer, increase the melanin formation and thus increase the hair complexion." Office Action at page 3. Applicants respectfully traverse the present rejection based on the following comments.

The combination of Pauly and Meybeck does not teach or suggest all of Applicants' claim limitations and, therefore, does not establish a *prima facie* case of obviousness (MPEP 2143.03). As currently amended, claim 1 requires a hair care composition comprising at least one ester derivative of tyrosine and at least one other amino acid compound selected from tryptophan compounds, histidine compounds and lysine compounds, and a *cosmetically acceptable carrier* which is *suitable for use on hair* and which comprises one or more *hair conditioning agents* selected from the group consisting of silicone conditioning agents and cationic conditioning agents. Neither Pauly nor Meybeck teach or suggest compositions which are suitable for use on hair and which comprise hair conditioning agents. Rather, Pauly discloses compositions aimed to be applied topically onto the epidermis to promote photo-pigmentation and/or photo-protection during exposure to sun or ultraviolet rays. See Pauly at column 1, lines 12-16. Similarly, Meybeck teaches and claims compositions and their methods of use for increasing melanin formation on the skin and the scalp. The compositions of both Pauly and Meybeck target the skin or scalp to provide the disclosed benefit of increasing melanin formation in the skin.

In contrast, the hair care compositions of Applicants' invention target the hair shaft, providing the benefit of improved strength and condition of the hair. It has been found that the levels of certain amino acids are reduced in damaged hair in comparison to undamaged hair. Applicants' hair care compositions provide the benefits of improved strength and improved condition to hair with the specific combination of amino acid compounds claimed and the hair conditioning agents. Therefore, the combination of Pauly and Meybeck fails to establish a *prima facie* case of obviousness with respect to Applicants' currently amended claims.

Accordingly, claims 1-4 and 8-10 are novel and nonobvious over the prior art of record.

CONCLUSION

In light of the amendments and remarks presented herein, it is requested that the Examiner reconsider and withdraw the present rejections. Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing,

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Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-4 and 8-10.

Respectfully submitted,

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